

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

In the Matter:	:	
Kyle James Wiehoff	:	Case No. 10-62559
Brooke Anne Wiehoff	:	
330 Oak Hill Drive	:	Chapter 13 (Judge Preston)
Westerville, OH 43081	:	
Debtors	:	
Kyle James Wiehoff	:	
Brooke Anne Wiehoff	:	
330 Oak Hill Drive	:	
Westerville, OH 43081	:	
Plaintiff,	:	
v.	:	Adv. Proc. No.
	:	
Onda, Labuhn, Rankin & Boggs Co., LPA	:	
266 N. 4th Street, Suite 100	:	
Columbus, OH 43215	:	
Defendant.	:	

**COMPLAINT TO AVOID PREFERENCE**

1. Plaintiff states that a petition for relief pursuant to Chapter 13 of The United States Bankruptcy Code was filed on October 22, 2010.
2. Plaintiff states that this is a core proceeding under 28 U.S.C. §157(b)(2)(F) and (I). Venue is proper under 28 U.S.C. § 1409(a).
3. Plaintiff brings this action under section 547(b) of the Bankruptcy Code and Bankruptcy Rule 7001(2) to avoid a judicial lien obtained by Onda, Labuhn, Rankin & Boggs Co., LPA against property of the debtor.
4. On August 27, 2010 Onda, Labuhn, Rankin & Boggs Co., LPA obtained a lien against Debtors' property commonly known as 330 Oak Hill Drive, Westerville, OH 43081 (Exhibit A).
5. This lien was obtained by Certificate of Judgment in the Franklin County Court of Common Pleas (2010 CVF 025316) after Onda, Labuhn, Rankin & Boggs Co., LPA obtained a money judgment from the Franklin County Municipal Court on August 25, 2010.
6. Plaintiff states that this Certified Judgment Lien obtained by Onda, Labuhn, Rankin & Boggs Co., LPA is an avoidable preference under 11 U.S.C. § 547(b).
7. Said lien constitutes a transfer of interest in property of the Debtors to or for the benefit of Onda, Labuhn, Rankin & Boggs Co., LPA as a creditor.
8. Said lien was obtained for or on account of an antecedent debt owed by the debtor to the Onda, Labuhn, Rankin & Boggs Co., LPA before the lien arose.
9. The lien was obtained while the debtor was insolvent consisting of principal of \$11,211.62, finance charges and court fees of \$244.79, prejudgment interest of \$1,198.11 at 12%, and attorney fees of \$250.00, for a total of \$13,031.52.

10. Said lien was obtained on or within ninety days or if for the benefit of an insider as defined under 11 U.S.C. § 101, between ninety days and one year before the filing of the petition.
11. Enforcement of said lien will enable Onda, Labuhn, Rankin & Boggs Co., LPA to receive more than they would receive as a creditor if this were a Chapter 7 case, the lien had not been obtained, and Beneficial Ohio Inc. received payment of his debt to the extent provided by the provisions of title 11 of the U.S. Code.
12. Pursuant to Bankruptcy Rule 7008 plaintiff states that this proceeding is core.
13. Plaintiff states that the Mandatory Chapter 13 Form Plan effective October 23, 2007 and revised April 17, 2008 give the Debtor "standing and authority to file the motion or adversary proceeding; to the extent that the Trustee has standing to bring such action, standing is hereby assigned to Debtor."

**WHEREFORE**, Plaintiff prays that:

1. The certified judgment lien obtained on August 27, 2010 by Onda, Labuhn, Rankin & Boggs Co., LPA in the Franklin County Court of Common Pleas (2010 CVF 025316) on Debtors' real property commonly known as 330 Oak Hill Drive, Westerville, OH 43081 be avoided.
2. That Onda, Labuhn, Rankin & Boggs Co., LPA file a release of lien with the Franklin County Clerk of Courts
3. Any other relief is granted that the Court finds just and equitable.

Respectfully submitted,

/s/ James W. Park

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon the following registered ECF participants, electronically through the Court's transmission facilities at their e-mail addresses registered with the Court, or by U.S. Mail, postage prepaid to the parties listed below on February 2, 2011.

**Electronic Service:**

Marshall D. Cohen, Esq.  
James W. Park, Esq.

**U.S. Mail Service:**

Kyle & Brooke Wiehoff |330 Oak Hill Drive |Westerville, OH 43081  
Onda, Labuhn, Rankin & Boggs Co., LPA |Attn: CEO |266 N. 4th Street, Suite 100 |Columbus, OH 43215  
Office of the US Trustee |170 N High St # 200 |Columbus, OH 43215  
Frank Pees, Chapter 13 Trustee |130 E Wilson Bridge Rd, Suite 200 |Worthington, OH 43085

/s/ James W. Park

Marshall D. Cohen, Case Attorney (0044066)  
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